

REMARKS

Summary of the Office Action

Claims 1, 3, 5-7, and 9 stand rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 1, 5-6, and 9 stand rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 4,671,444 to *Oliver* ("*Oliver*").

Claims 3 and 7 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over *Oliver* in view of U.S. Patent No. 3,029,436 to *Kufel* ("*Kufel*").

Summary of the Response to the Office Action

Applicant has amended claims 1 and 6. Claims 2, 4, and 8 are cancelled. Claims 1, 3, 5-7, and 9 are presently pending.

The Rejection Under 35 U.S.C. § 112, second paragraph

Claims 1, 3, 5-7, and 9 stand rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Applicant has amended claims 1 and 6 in order to expedite the prosecution of this case. Applicant respectfully submits that the amendments to claims 1 and 6 do not narrow the intended scope of the claim, and therefore, Applicant does not intend to relinquish any subject matter by these amendments. Applicant respectfully submits that claims 1 and 6 meet all the requirements of 35 U.S.C. § 112, as amended. Thus, the rejection of claims 1

and 6 under 35 U.S.C. § 112, second paragraph, is moot. Accordingly, Applicant respectfully requests that the rejection under 35 U.S.C. § 112, second paragraph, be withdrawn.

The Rejection Under 35 U.S.C. § 102(b)

Claims 1, 5-6, and 9 stand rejected under 35 U.S.C. § 102(b) as being anticipated by *Oliver*. Applicant respectfully traverses the rejection of claims 1 and 6 for at least the following reasons.

Independent claims 1 and 6 recite “lower surfaces of upper portions of the next staple and continuing staples of the connected staples are in contact with an upper surface of the pusher, wherein a protrusion surface of the support surface opposed to the leading-end staple, slopes in a driving direction of the driver, and there is no gap between the upper surface of the pusher and the protrusion surface.” Thus, *Oliver* fails to teach or suggest at least these features of claims 1 and 6.

In the structure of *Oliver*, the Office Action argues that connected staples contact an upper surface 302 of the pusher 56, and the pusher has a protrusion 318 with a sloping surface 316 that slopes in the driving direction of the driver. See page 3 of the Office Action. As seen in FIGs. 13 and 14 of *Oliver*, the alleged upper surface 302 of the pusher 56 may contact the underside of connected staples before stapling, but there is a large “gap between the upper surface of the pusher and the protrusion surface.” In contrast, claims 1 and 6 recite that there be no gap. Therefore, *Oliver* cannot satisfy the requirements of the claimed invention.

For at least the above reasons, Applicant respectfully requests that the rejection of claims 1 and 6 under 35 U.S.C. § 102(b) as being anticipated by *Oliver* be withdrawn.

Additionally, Applicant respectfully requests that the rejection of claims 5 and 9, which depend from claims 1 and 6, respectively, should be withdrawn under 35 U.S.C. § 102(b) as being anticipated by *Oliver*.

Claim Rejections Under 35 U.S.C. § 103(a)

Claims 3 and 7 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over *Oliver* in view of *Kufel*. Applicant respectfully traverses the rejection.

Dependent claims 3 and 7 recite that “the driver includes a pair of leg portions that come into contact with both corners of the C-shaped leading-end staple and push out the leading-end staple.” As shown in Figs. 6 and 14 of *Oliver*, there are no “leg portions” on the driver or fastener driving element (22, 212). Section 7 of the June 23, 2008 Office Action also admits these features are not met in *Oliver*. Thus, *Oliver* by itself does not meet this requirement of claims 3 and 7.

Applicant respectfully asserts that *Kufel* also does not teach at least “wherein the driver includes a pair of leg portions that come into contact with both corners of the C-shaped leading-end staple and push out the leading-end staple,” as recited in claims 3 and 7.

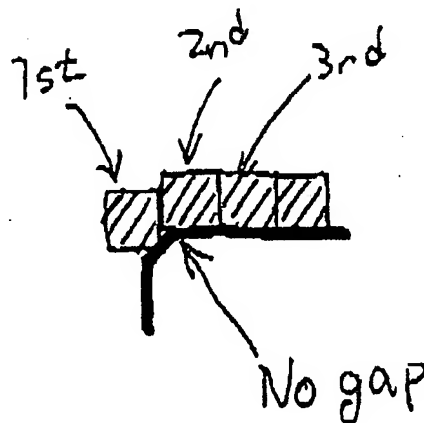
The Office Action misinterprets the *Kufel* specification from col. 2, line 72 through col. 3, line 7. See section 7 of the June 23, 2008 Office Action. The former arms 32 of *Kufel* are located on the formers adjacent to the driver 22. See Fig. 7 of *Kufel*. Thus, the driver 22 does

not have "leg portions that come into contact with both corners of the C-shaped leading-end staple and push out the leading-end staple." Rather, it is the former that has former arms 32 to bend the staple into a C-shape before stapling. This is clearly seen in Fig. 7 of *Kufel*. It does not matter (as the Office Action asserts) whether the driver and former are fabricated from one piece of sheet metal for economy when the fact remains that the driver does not have "a pair of leg portions that come into contact with both corners of the C-shaped leading-end staple and push out the leading-end staple." The former forms a staple, it does not drive and push out a staple.

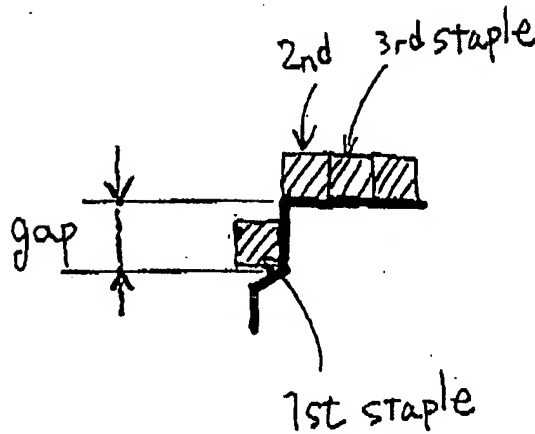
For at least these reasons, Applicant respectfully asserts that the features of claims 3 and 7 are in condition for allowance. Prompt allowance of claims 3 and 7 is requested.

Furthermore, Applicant respectfully submits that in the present invention, as shown in sketch A below, the inclining support surface can contact and support a lower surface of the upper portion of the leading-end staple (first staple) as the first staple is torn off from the second, third, etc. staples. This prevents the cutting noise in the tearing off step.

SKETCH A



SKETCH B



As shown in sketch B above, with the structure of *Oliver*, the lower surface of the upper portion of the first staple cannot contact the inclined surface until the first staple is struck by the driver 22 and moves in the driver's moving direction by the length of the gap. Because the lower surface of the upper portion of the first staple cannot contact the inclined surface of *Oliver*, the first staple is already completely torn off before it reaches the inclined surface. *Kufel* does not make up for the deficiencies of *Oliver*. Thus, the structure of *Oliver* and *Kufel* cannot prevent the undesirable cutting noise in the tearing off step.

For at least the above reasons, Applicant respectfully requests that the rejection of claims 3 and 7 under 35 U.S.C. § 103(a) as being unpatentable over *Oliver* and *Kufel* be withdrawn.

Conclusion

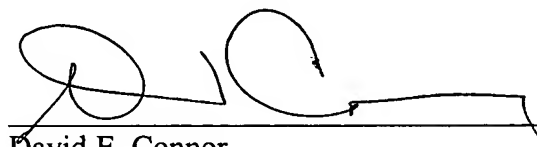
In view of the foregoing, Applicant respectfully requests reconsideration and the timely allowance of the pending claims. Should the Examiner feel that there are any issues outstanding after consideration of this response, the Examiner is invited to contact Applicant's undersigned representative to expedite prosecution.

If there are any other fees due in connection with the filing of this response, please charge the fees to our Deposit Account No. 50-0310. If a fee is required for an extension of time under 37 C.F.R. § 1.136 not accounted for above, such an extension is requested and the fee should also be charged to our Deposit Account.

Respectfully submitted,

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